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MAY 25 2017	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <u>HA</u>	DEPUTY

Parris Frazier #45847-408

Name and Prisoner/Booking Number

Federal Correctional Institution -- La Tuna

Place of Confinement

P.O. Box 3000

Mailing Address

Anthony, Texas 88021

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

CR-15-924-PHX-GMS-1

United States of America,

Plaintiff,

v.

Parris Frazier,

(Full name of Movant. Include the name under which you were convicted.)

Defendant/Movant.

No. CR 15-00924-001-PHX-GMS

(Enter your criminal case number)

No. CV _____

(To be supplied by the Clerk)

MOTION UNDER 28 U.S.C. § 2255
TO VACATE, SET ASIDE OR
CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY

- (a) Name and location of court that entered the judgment of conviction you are challenging: Sandra Day O'Connor U.S. Courthouse, Suite 130
401 West Washington Street, SPC1, Phoenix, AZ/ 85003-2118
- (b) Criminal docket or case number: CR 15-00924-001-PHX-GMS
- Date of judgment of conviction: 03-11-2016
- In this case, were you convicted on more than one count or crime? Yes ☐ No ☒
- Identify all counts and crimes for which you were convicted and sentenced in this case: §841(c) Transporting narcotics and §922(c) Possession of a Firearm
in Furtherance of Drug Trafficking Offense. 924 (c)

5. Length of sentence for each count or crime for which you were convicted in this case: 84 months

6. (a) What was your plea?

Not guilty

☐

Guilty

☒

Nolo contendere (no contest)

☐

(b) If you entered a guilty plea to one count or charge, and a not guilty plea to another count or charge, give details: _____

(c) If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

7. Did you appeal from the judgment of conviction? Yes ☐ No ☒

If yes, answer the following:

(a) Date you filed: _____

(b) Docket or case number: _____

(c) Result: _____

(d) Date of result: _____

(e) Grounds raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

8. Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If yes, answer the following:

(a) Date you filed: _____

(b) Docket or case number: _____

(c) Result: _____

(d) Date of result: _____

(e) Grounds raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

9. Other than the direct appeals listed above, have you filed any other petitions, applications or motions concerning this judgment of conviction in any court? Yes ☐ No ☒

If yes, answer the following:

(a) First petition, application or motion.

(1) Date you filed: _____

(2) Name of court: _____

(3) Nature of the proceeding: _____

(4) Docket or case number: _____

(5) Result: _____

(6) Date of result: _____

(7) Grounds raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(b) Second petition, application or motion.

(1) Date you filed: _____

(2) Name of court: _____

(3) Nature of the proceeding: _____

(4) Docket or case number: _____

(5) Result: _____

(6) Date of result: _____

(7) Grounds raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(c) Did you appeal the action taken on your petition, application or motion?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action your petition, application or motion, explain why you did not:

10. For this motion, beginning on the next page, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.

GROUND ONE: New Supreme Court decision that §924(c) may be illegal

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
The Supreme Court has decided April 03, 2017 that it is inappropriate
for sentencing courts NOT to consider the length of the mandatory
minimum sentence when sentencing for the underlying offenses,
essentially to fulfill the requirements of 3553a. (and give a
shorter sentence)

- (b) Did you present the issue raised in Ground One to the court of appeals? Yes ☐ No ☒
- (c) If you did not raise this issue in a direct appeal, explain why: never raised an appeal

GROUND TWO: Ineffective assistance of Counsel

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
never proved no weapon was involved, never communicated with me
all he wanted was a plea bargain, and appointed counsel miss informed
me of my rights to appeal !!!

(b) Did you present the issue raised in Ground Two to the court of appeals? Yes ☐

No ☒

(c) If you did not raise this issue in a direct appeal, explain why: never raised an appeal

GROUND THREE: Informant was unreliable.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
His track record was not brought in to the court, he had personal
gain for his lies, he had a grudge against me

(b) Did you present the issue raised in Ground Three to the court of appeals? Yes ☐

No ☒

(c) If you did not raise this issue in a direct appeal, explain why: never raised an appeal

GROUND FOUR: Prosecutorial misconduct

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
the prosecution used testimony he knew was false and is in the
discovery!

- (b) Did you present the issue raised in Ground Four to the court of appeals? Yes ☐

No ☒

- (c) If you did not raise this issue in a direct appeal, explain why: _____

never raised an appeal

Please answer these additional questions about this motion:

11. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If yes, give the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised: _____

12. Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging? Yes ☐ No ☒

If yes, answer the following:

(a) Name and location of the court that imposed the sentence to be served in the future: _____

(b) Date the sentence was imposed: _____

(c) Length of the sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

13. TIMELINESS OF MOTION: If your judgment of conviction challenged in this motion became final more than one year ago, you must explain why the one-year statute of limitations in 28 U.S.C. § 2255 does not bar your motion.*

I believe this motion to be timely by a New Supreme Court Ruling

*Section 2255 provides in part that:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

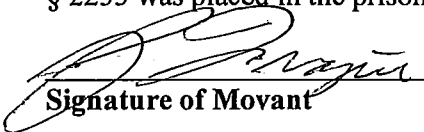
(1) the date on which the judgment of conviction becomes final;

- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

14. Movant asks that the Court grant the following relief: _____
reduction of sentence

or any other relief to which Movant may be entitled. (Money damages are not available in § 2255 cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on MAY 8TH 2017 (month, day, year).



Signature of Movant

Signature of attorney, if any

Date

PLEASE Forward a COPY OF This foregoing document to The Assistant U.S. Attorney assigned To This Case Through P.A.C.E.R.